*613 554 578 692 Conflict regulation, in the formal sense, is the province of the 'aqila. All complaints should be taken before the 'aqila. In al-Qasr, every individual has certain rights, and when any of these rights are infringed upon he may demand a redress of wrongs: he demands his rights, or exercises haqq al-'Arab ("the right of the Arabs"). The haqq al-'Arab is opposed to the haqq Allah, "the right of God," which concerns crimes against religion (i.e., wine-drinking, apostasy). The dichotamy represents private claims over against the claims of a religious state which is characteristic of Islamic society. [688] In al-Qasr, crimes against religion have never occurred, and if they did they would be handled in Marsa Matruh by the local shaikh ("holy man").

*613 554 *69 The litigation process is initiated when an individual appears before his 'aqila with a claim, and the statement: "I do not wish so-and-so to take any of my rights." The 'aqila first attempts to persuade each party "to return to the path of the good," to come together and to cease quarreling. This type of moral persuasion is preliminary to a full court-hearing in which both parties will appear with witnesses before their respective 'awaaqil, and other "third parties" who aid the 'awaaqil in their decision. The decision reached by the court is morally binding upon both parties. According to recent [691] [798] innovation in Bedouin customary law, the details of the litigation and the decision reached by the court are to be recorded

*613 554 • 69 [671] [178] on paper in triplicate, one copy going to each litigant and a third copy to the chief of police of the Marsa Matruh sector. In practice, though, a copy usually goes to the litigants, but not to the chief of police (who had not a single Bedouin court case in his files).

*613 695 692 [671] As is not the case in Islamic law, in Bedouin customary law the decision of the judge may be appealed. The system of appeals may even function at the level of familial authority, i.e., the son may, in theory, appeal a ruling by his own father. The Bedouins insist that this is an important right of every man. In the situation where a man wishes to appeal a decision of his own 'aqila, he will generally take his claim to another 'aqila of his secondary group. When an appeal is to be made, it is done with the permission of the 'aqila who rendered the original decision. The one who appeals his case does so with the understanding that the decision returned by the court of appeal will be final and binding. Further, if [681] the court of appeal concurs with the findings of the original court, the plaintiff pays a double fine (twice the original fine), and also pays his own 'aqila an expiation fee (kubaara).

69 648 [682] [685] The Egyptians have preferred to leave the Bedouins of al-Qasr to settle their own disputes except in the more serious criminal matters. Police from Matruh will enter homicide cases and those conflicts over property rights which threaten to explode into tribal warfare. But these types of conflict have

•69 648 been infrequent in al-Qasr. The 'awaaqil of al-Qasr and the police of al-Qasr have an agreement that Bedouin problems are the jurisdiction of the desert leaders, and that the police will intervene only when their help is requested. The Bedouins claim that in the 1930's, the Egyptians tried to do away with Bedouin law but soon discovered their own penal code to be inoperative in the desert. Against "outsiders," the 609 69 Bedouin is duty bound to protect his kinsmen, and hence justice could not be satisfied. One 'aqila said that "only the *613 682 182 'awaiyid Awlad 'Ali can maintain order because it stops wars through payment of blood-money." If a Bedouin, for some reason or 692 other, takes his case to the police in Matruh, he will be 648 returned to his 'aqila; he will be told that they can do *613 nothing for him without the permission of his 'aqila. There are exceptions to this rule which complicate modern Bedouin 692 judicial procedure. For instance, in cases which involve 685 government property, such as olive trees and government- 648 operated water systems, a man may legitimately deal with the *613 police. In one case in al-Qasr, a man's goats destroyed a number of his neighbor's olive trees. The police decided that the owner of the goats should pay the value of the trees. In another case, a man who had constructed small earth dikes in such a way that rain water was prevented from flowing onto his neighbor's land was forced against his will to remove the obstruction. His neighbor had taken his complaint to the

685 I was in al-Qasr, and each party to the conflict hired
578 Egyptian lawyers in Marsa Matruh to represent them. As one
648 litigant in this case told me: "The Bedouins prefer to settle their own land disputes because the government's way of handling these things costs money and long periods of waiting."

*69 The notion of jurisprudence in tribal cultures, in
121 general, seems to be one which concentrates on the restoration
578 of a disturbed balance rather than one concerned with formality and procedure. To a great extent, this is true in the Bedouin case also. However, the absence of institutionalized ways of dealing with conflict is more characteristic of the internal
*613 system of political relations. Conflict within the secondary
578 segment, we have noticed, may be regulated at the familial
[593 level of authority by the shaib, or one acting in his place:
596] it is hoped by the Bedouins that quarrels never become serious enough to prompt intervention by the 'aqila. On the other hand, the 'aqila, as a legitimate representative of his authority group, will almost always become involved in conflict regulation falling within the sphere of external political relations, i.e., conflict between secondary, primary, or tribal segments.

*613 The 'aqila as the most effective mechanism of social
578 control has become institutionalized through time in Bedouin
182 society. At the interactional level of secondary lineage group relations, conflict may easily expand into feuding or,

modern court system may be viewed as a form of appeal to the tribal justice. One has to be careful, however, in calling such a procedure an appeal, since the tribal proceedings have no relevance in the court proceedings.

The duality is more serious in criminal cases. When an act is defined as illegal by both the tribal and modern law, persons committing it come automatically under the jurisdiction of both laws. As long as such acts remain unknown to the police, the duality of procedures is not undertaken. This is possible in minor cases of assault or theft or adultery. But in major cases, such as homocide or serious assault resulting in the serious injury of a tribal member, it is difficult to keep the news a secret from the authorities. The funeral proceedings in the former cases and the medical attention needed in the latter cases are hard to conceal. Besides, serious cases start a whole series of mediations and go-betweens which always become the general knowledge in the entire area and the subject of conversation among the people. When the authorities know about such cases, they have to take immediate action to bring the offender to trial, even when the government authorities know that the tribal proceedings are being conducted in the case. Some attempts are made by both the tribal law and the modern law to minimize the effect of that duality. It is common that when the district attorney knows that a certain criminal case has been successfully solved according to the tribal proceedings, to ask for the minimum penalty for the offense. On the side of the tribal proceedings, once the case has been solved, the witnesses needed to testify for the prosecutor are instructed by their fellow tribesmen to refrain from giving the information

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required for the indictment of the offender according to the modern legal system. If this is not possible and the offender is sentenced by the government court, only half the tribal settlement is paid, and the rest is postponed pending the release of the offender. If the offender is executed or he dies in prison, then the unpaid part of the settlement is dropped.

CHAPTER V

POLITICAL LEADERSHIP AND JUDICIAL PROCESS

69 627 628 One of the most idstinguishing aspects of the legal system of Awlad Ali is the absence of any formalized judicial structure. Disputes are solved mainly through the mechanism of informal mediation rather than through formal hearings of a court during which the facts of each case are presented and judgment based on the facts is passed. This does not mean that formal hearings are not known on the area. For the "Mi'ad" or tribal hearing is a common and very important practice in the tribal proceedings. The Mi'ad, however, is not a tribal court. It is merely a gathering of all interested parties and anyone else who wished to attend, in which the agreement reached behind the scenes by means of negotiations are announced.

628 613 683 [114] The first Mi'ad I attended was held in the house of Sheikh Mughaieb, the Aqila (tribal leader) of bait Mughaieb of the Sanagrah tribal segment in the area of Hammam, 60 miles west of Alexandria. The case that was to be settled at the Mi'iad involved the assaulting of Sheikh Mughaieb ty two younger members of bait Daoud who lived in a nearby camp. The dispute started when Ali, the youngest brother (14 years old) of the two assailants, found a piece of iron in the desert. Suspecting that it was a mine, he took it away from the camp to the small garden in the backyard of Sheikh Mughaieb's house, surrounded it with dry weeds and set fire to it. The piece of iron was in fact a mine and it exploded, damaging the trees and a window on the Sheikh's property. At the sound of the explosion Sheikh Mughaieb rushed out and found the boy trying to run away from